EMPLOYER COUNCIL ST MAARTEN

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September 7th, 2021

Minister Omar Ottley
Ministry of Health, Social Affairs and Labor
Government Administration Building
Soualiga Road 1
Pond Island, Philipsburg

Subject: Our remarks pertaining to ZV / OV participation cap changes, as requested by the Minister

Dear Honorable Minister,

We thank you for informing the private sector regarding the proposed law adjustments to increase the ZV / OV limits. We still await clarification (as per our letter of September 6th) regarding the initial demands of the Dutch government regarding ZV / OV reforms.

As per your request during last weeks information meeting, please see attached our clarification questions, remarks and concerns. The concerns raised are not necessarily in order of importance.

Clarification questions

1. The Tripartite Committee (TPC) has not yet received the draft law for an opinion; nor have minutes of the first meeting pertaining to this topic been shared. Both are obligatory by conventions. When can the members of the tripartite committee expect such?

2. The "advice" from the International Monetary Fund includes bringing the civil servants and government into the same ZV/OV structure. This is not included in the legislation; it appears that the government is only selecting part of the recommendations. CFT has also recommended inclusion of civil servants in ZV/OV. This would add to a much higher increase than the current proposal. Can this be motivated?

3. Will dependents remain insured without premium? The approximate size of entire labor force is 21,000 (Labor Force Survey) and SZV insures 35,000 through the ZV; that means that well over 2/3 of insured persons under ZV are not contributing. This is not the norm in private insurance. There are always additional premiums for dependents and could be contributing to the deficit.

   When dependents were added to the insured group of individuals the employee part of the premium was introduced at 2.1%. Because many dependents were in some way covered under the PP-card, government cut costs, in exchange for which it also promised to pay 2.1% premium. Local ZV/OV premiums then resulted in surpluses until approximately autonomy status. However, in 2014, the then Minister of Finance decided to shift Government's 2.1% to the employee with the substantiation that they were the ones benefiting. This can be seen as a belated tax increase on the employee whether they had dependents or not.

4. The increase of salary cap but not a similar increase in sickness pay allowance, penalizes the companies with higher wage earners disproportionately. By requiring them to contribute more but be reimbursed less when long term illness takes effect. Would it not be better to eliminate this part of the insured plan especially if the desire is to ensure the solvency of SZV?

5. As medical costs rose unexpectedly, tariffs were then increased quite significantly. Good governance would have entailed much earlier increasing the maximum premium income and the premium percentage. The maximum premium income has not been changed by Government since 2016. In addition, it was not increased in 2018 and 2019 when it was understood to hamper the little economic growth that we were able to realize after Irma.

   In your presentation, it was mentioned that there was no indexation since 2016 as government was already planning to implement the legislation (CPI 2016-2020: 4.5%). Now the SZV needs more income but in 2014, the year that the employee contribution doubled, the total premium went up from 10.4% to 12.5% or an increase of 20%. Where did things go wrong that quickly, can it be motivated why the 20% raise was apparently an underestimate?

6. The amount of ANG 8.5 million is the estimated surplus created by these measures. We see it as more appropriate to increase the Wage Reimbursement accordingly and not freeze it on ANG 67k. This would only cost approximately 500,000 ANG. Adding civil servants and SZV employees would however create a surplus of more than double that amount. The ZV OV funds combined according to the published 2019 Annual report have a deficit of over ANG 200 million. It is nearly 2 years later; we can only imagine how the Pandemic has impacted the deficit. How does government motivate these choices (freezing Loss of Wage Reimbursement but not including Civil Servants and SZV employees in ZV/OV; not adding a premium to the employee for a dependent)? As such, this single narrow change is unlikely to have any real impact on the funds reserve deficit when the business sector is struggling and we fear that Government will in short time be asking for additional levies from the private sector.

Remarks and concerns

1. One of our key concerns pertains to the planned retroactive implementation. If you fail to meet the timeline set as required. A retroactive implementation will cause much havoc on the payroll administration, you will force people to be uninsured and you will charge them for a service that you did not provide. This is not advisable.

2. The overall shortage in the "funds" includes the structural shortage in FZOG. FZOG does not apply to the private sector. We do not have any government annual accounts. Without these it is not possible to evaluate the cause of the shortfalls in the fund. The cause of the structural shortfalls needs to be included in the draft legislation "memorie van toelichting" or MVT.

3. The increase in premium amounts to about 10% of current SZV premium will be for the account of "high earners" that already pay a much higher percentage in wage tax due to the progressive tax scales. The fact that it will not apply to high earners in the public sector places undue burden on the private sector.

4. For Macro Economic purposes, the increase in premiums can be considered a substantial tax increase. As such this increase cannot be seen outside the general tax reform as per country packages and needs to be addressed from that perspective.

5. The change will have a major impact on the business case of insurance companies. It becomes questionable whether they will be able to maintain presence in the St. Maarten market, potentially leaving those who do not fall under ZV to have to look for, much more expensive, insurance elsewhere. This group is larger than one might think; and in all income brackets:
   - Casual workers
   - Sole proprietors
   - People earning over ANG 120,000
   - Managing directors of NV's/BV's
   - Persons working less than 5 days per week
   - Domestic employees (maids, gardeners, etc.)

6. This appears to be a missed opportunity with respect to the harmonization and integration of civil servants into the ZV. This is the, on average, highest paid group of employees (over 2,000) and is also a quite large group, much larger than the anticipated increase mentioned in the MvT. The same can be asked of SZV employees (another 115 employees with an even higher average income than civil servants).

7. It stands to reason that some companies will not be able to afford this increase. Especially, if you have not established a grace period for those whose private insurance does not fit the calendar year. We would venture that the resulting layoffs that may follow will not occur in the higher wage earners that often are in vital roles or key revenue generators but in the lower wage-earning support staff. Causing more unskilled unemployment that the country can hardly afford.

8. This places a further financial burden on the employer who will now have to pay for a supplementary insurance to cover procedures/ expenses that are not covered under SZV; which may be currently included in a contractual obligation such as Vision and Dental.

9. Currently ZV does not cover illness or accident when abroad. This is a major drawback against a shift toward mandatory cover away from private care.

10. Many employees are on NET contracts, this change impacts employers through not only the increase in ZV but also in the gross salary to cover the employee's contribution.

11. It is estimated that the increase in premium will be approximately Naf 8.5 million with an additional 3500 insured but only approximately 1400 more contributing. According to the published financial statements of SZV there is already a rather large geberal deficit of over Naf 45 million and as mentioned a specific deficit to these funds of over Naf 200,000. It does not appear that this measure alone will ensure the solvency of the SZV. Or in other words it will take many years to make up the existing fund deficit as it stood in the last financial statements. Not counting where they are actually today and assuming the cost versus income analysis is correct. With no serious talk of cost containment at SZV.

    Conversely, there is a back log of Naf 68 million or 70% of the total AR of SZV on 12/31/2019 in payment backlog due from the Government of for coverage of Civil Servants, CFT has strongly recommended that a payment arrangement be reached and adhered to, yet that is not urgently on the table. The growing deficit must be addressed from not only the perspective of filling the holes but from affordable and managed service levels.

12. Some employers may have a long term group insurance plan as an additional benefit; with favorable terms for employees in this bracket. This is due to the fact that for all the others covered under SZV we have to contribute 8.3% as an employer.
    In one case:

- The premium is still the same as in 2016 and we can cover employees up till 70 years.
- The ZV total premium is 12.5% and is split 4.2% deducted from the employee and 8.3% contribution by the employer.
- This 4.2% means has to be to increased to provide the gross wages to give the same net.
- As the private insured are the people in the higher tax bracket this means I have to increase their wages by more than 8% to give the same net.
- Also, 12.5% times 12 months means SZV collects a premium that is equal to at least 1.5 months of gross wages, which is not at all comparable to the level of private care in this case currently per person (including dependents) and most likely in most cases.

General remarks regarding the process

All of these comments combined reflect that an undue burden is again being place on the businesses in a very harsh economic climate in the wake of hurricane Irma and the global COVID19 pandemic.

Further, it is stated that this is being mandated by the Kingdom Council of Minister and the CFT; but there is no reflection on the prior management of the funds that have in fact brought us to this state. As the Private Sector is a major contributor to the SZV funds under management, there should be an appropriate level or representation on the Board of Directors of the SZV; where currently there is not.

In order for the stakeholders to provide both their input and assistance, we would like to repeat our formal request for two sources of information you referred to at the basis of this change:

1. The “Hard demands” coming from the Dutch government pertaining to these changes
2. The underlying research done by College Financieel Toezicht (CFT) that led to these recommendations

The “Aanwijzing voor de Regelgeving” (AB26, 2013) requires government to take various steps for a policy process. We hereby also repeat our request

3. Which of these prescribed steps have been taken thus far pertaining to the ZV / OV limit change, including but not limited to, stakeholder consultation?

Yours sincerely, on behalf of the Employer Council, our associations, and their members,

Paul Henriquez, President – Representing St Maarten Hospitality & Trade Association (SHTA)
Damu Rawtani, Vice – President – Representing Indian Merchants Association (IMA)
Christopher Marshall, Secretary – Representing Sint Maarten Marine Trades Association (SMMTA)
Jelle van Woudenberg Hamstra, Treasurer – Representing Sint Maarten Timeshare Association (SMTA)